

1 Rene L. Valladares
2 Federal Public Defender
3 Nevada State Bar No. 11479
4 *Martin L. Novillo
5 Assistant Federal Public Defender
6 Virginia Bar No. 76997
7 411 E. Bonneville Ave., Ste. 250
8 Las Vegas, Nevada 89101
9 (702) 388-6577
10 Martin_Novillo@fd.org

11 *Attorney for Petitioner Jack Leal

12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Jack Leal,

Plaintiff,

v.

Nevada Department of Corrections, *et al.*,

Defendants.

Case No. 2:21-cv-01965-GMN-VCF

**Unopposed motion to extend
deadline to serve defendant and
file proof of service**

Petitioner Jack Leal respectfully moves this Court for a final extension of time of thirty (30) days to serve Defendant H. Landsman, as required by this Court in its April 10, 2023, Notice of Intent to Dismiss. (ECF No. 50). Counsel for Defendants does not oppose the request. In support of his motion, Mr. Leal represents as follows:

Counsel for Mr. Leal files the present motion in good faith. Mr. Leal initiated the current matter by filing a Complaint on or about October 25, 2021. ECF No. 1. This Court appointed counsel for Mr. Leal on January 30, 2023. ECF No. 45. Undersigned counsel entered his appearance on February 16, 2023. ECF No. 47. On April 10, 2023, this Court entered a Notice Regarding Intention to Dismiss as to three parties, Scott Mattinson, T. Agustin, and H. Landsman, unless proof of service was filed with the clerk by May 10, 2023. ECF No. 50. On May 8, 2023, undersigned counsel, through an investigator, effected service upon Defendant T. Agustin.¹ See ECF No. 56. The same investigator attempted to serve Defendant H. Landsman but was unable to find him at his place of residence. Counsel sought an extension until May 24, 2023, to serve Defendant Landsman, which this Court granted on May 15, 2023. ECF Nos. 55, 57.

Following the above motion for an extension of time, counsel hired a process server, “Legal Wings, Inc.,” to serve Mr. Landsman. On May 24, 2023, undersigned counsel spoke with a representative for the process server who explained that, in the preceding week, an agent had unsuccessfully attempted service on two occasions. The representative suggested that, based on the process server’s observations, Mr. Landsman may have been avoiding service. The representative noted that the company would attempt service two more times. Counsel then sought another extension of time until June 7, 2023, to serve the defendant. ECF No. 63. Following the motion, counsel’s process server unsuccessfully attempted service on two additional occasions. *See Ex. A, Declaration of Attempted Service.*

In light of the above developments, undersigned counsel requests a final extension of time of thirty (30) days to attempt to serve Defendant Landsman or

¹ While attempting to ascertain the whereabouts of each above-referenced individual, counsel discovered that Defendant Scott Mattinson has passed away. Mr. Leal will voluntarily dismiss his case against that individual.

1 seek alternative service methods consistent with Rule 4 and state law. Counsel's
2 process server has indicated it will conduct a final, and more thorough, search to
3 attempt to locate Defendant Landsman. Should those efforts fail, counsel will seek
4 to serve the defendant through publication.

5 On June 7, 2023, undersigned counsel contacted opposing counsel Anna L.
6 Heshmati to see if Defendants would stipulate to an extension of time as provided
7 herein. Ms. Heshmati represented that Defendants do not oppose the request.

8 This motion is not filed for the purposes of delay, but in the interests of justice,
9 as well as in the interest of Mr. Leal. As noted above, counsel has diligently sought
10 to serve Defendant Landsman. Counsel for Mr. Leal respectfully requests a final
11 extension, until Friday July 7, 2023, so that he may attempt to ascertain Defendant
12 Landsman's whereabouts and personally serve him or, alternatively, seek
13 authorization to serve him through publication.

14
15 Dated June 7, 2023.

16
17 Rene L. Valladares
18 Federal Public Defender

19 /s/ Martin L. Novillo
20 Martin L. Novillo
21 Assistant Federal Public Defender
22 Attorney for Plaintiff

23 IT IS SO ORDERED:

24
25 

26 _____
27 United States ~~District~~ Judge
Magistrate

Dated: 6-8-2023

EXHIBIT A

EXHIBIT A

FEDERAL PUBLIC DEFENDER'S OFFICE, DISTRICT OF NEVADA
411 E BENNEVILLE AVE, STE 250
LAS VEGAS, NV 89101
(702) 388-6577



UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JACK LEAL
Plaintiff

vs

CHARLES DANIEL, ET AL.,
Defendant

Case Number: 2:21-CV-01965-GMN-VCF

Dept:

**DECLARATION OF
ATTEMPTED SERVICE**

TYLER TREWET, depose(s) and say(s):

That affiant(s) are and were at all times mentioned herein citizen(s) of the United States, over 18 years of age, not a party to, nor interested in the within action, and licensed to serve civil process under Nevada license number 389.

Legal Wings, Inc. received on 5/22/2023 a copy of the:

SUMMONS IN A CIVIL ACTION; CIVIL RIGHTS COMPLAINT

Based on the results at the address(es) listed below, affiant(s) were unable to serve:

Defendant HENRY LANDSMAN

10055 CANYON HILLS AVENUE, LAS VEGAS, NV 89148

TYLER TREWET 5/22/2023 5:43 PM

No response at door. Noise and movement within. Occupant within moving around refusing to open for server.

TYLER TREWET 5/23/2023 11:40 AM

No response at door. No activity within.

TYLER TREWET 5/24/2023 12:20 PM

No response at door no activity or change from prior attempt. No answer with neighbor. Legal Wings contact sheet left on garage.

TYLER TREWET 5/24/2023 7:09 PM

Received a text from [REDACTED] 8195 stating the subject is no longer residing. See attached text message.

JACK LEAL
Plaintiff

vs

CHARLES DANIEL, ET AL.,
Defendant

Case Number: 2:21-CV-01965-
GMN-VCF

Dept:

**DECLARATION OF
ATTEMPTED SERVICE**

(CONTINUATION)

Pursuant to NRS 53.045, I declare under
penalty of perjury under the law of the
State of Nevada that the forgoing is true
and correct.

Executed: Wednesday, June 7, 2023



TYLER TREWET
Registered Work Card R-2019-04184

